

## **Court Facilities Dispute Resolution Committee**

Ms. Karen Finn, Chair, Representative of the Department of Finance  
Justice Ron Robie, Representative of the Judicial Council  
Supervisor John Tavaglione, Representative of the California State Association of Counties

October 16, 2008

Michael C. Genest, Director  
Department of Finance  
State Capitol, Room 1145  
Sacramento, CA 95814

Re: Court Facilities Dispute Resolution Committee Recommendations from the  
September 30, 2008, meeting

Dear Director Genest:

This letter is to inform you that the Court Facilities Dispute Resolution Committee (CFDRC) formally met on September 30, 2008, to hear the Riverside County initiated dispute regarding the County Facility Payment (CFP) for the Riverside Family Law Court facility.

Government Code Section 70366 provides that within 30 days of the Administrative Office of the Courts (AOC) mailing a county an approved CFP, the county may submit a declaration to the CFDRC that the amount is incorrect for one or more of the following reasons:

- (1) Expenditure data is reported incorrectly or calculated incorrectly and causes an approved county facilities payment amount that is higher than the payment should be.
- (2) The approved county facilities payment includes amounts that were specifically appropriated, funded, and expended, by the county to fund extraordinary one-time expenditures. Extraordinary one-time expenditures do not include periodic major facility repair or maintenance including but not limited to, reroofing or replacement of a major system component. Extraordinary one-time expenditures do include, but are not limited to, abatement of asbestos and seismic structural upgrades.
- (3) The approved county facilities payment includes expenses funded from grants or subventions that would not have been funded without these grants or subventions.

Riverside County's disputed the CFP based on the first reason listed above.

The Committee's recommendations are detailed below:

### **Family Law Court**

Riverside County disputes the methodology used to calculate the operations and maintenance (O&M) costs for the Family Law Court. The AOC and Department of Finance (Finance) approval letter from January 2007 indicates that the O&M costs should be based on the costs that existed from the Larson Justice Center in Indio, CA. However, the county contended that the facilities' variances in size, location, climate, construction technology, size, equipment, and various other facility details do not lend themselves to this method of calculating O&M costs.

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Government Code Section 70356 notes that the CFP shall be based on a five-year average of expenditures computed on FY 1995-96 to 1999-00 for facility operations and maintenance, inflated to the date of transfer. The AOC noted that its 2004-05 Countywide Cost Allocation Plan (COWCAP) was based on one year of data (2002-03), rather than the five-year average specified in Government Code 70356.

Riverside noted that Government Code Section 70354 states that the components of the county facilities payment are based on the actual annual direct and indirect county expenditures on court facilities, but that these figures were not available from the Department of Facilities Management at the time of CFP development.

In a January 23, 2007 letter to Finance, the AOC indicated that it had learned of an O&M expense for the Larson Justice Center in Indio, which it noted was a building of the same age as the Family Law Court in Riverside, and that it had communicated to the county that this was the data that should be used to calculate the CFP for the Family Law Court. The AOC indicated in its letter that the county agreed to a corrected CFP if Finance required such.

The modified approved CFP amount is \$335,165, and Riverside County contends the CFP amount should be \$269,190 based on the COWCAP methodology, a difference of \$65,975 annually. Even with the modified methodology and higher CFP amount, in its letter to the AOC on January 26, 2007, Finance indicated that it was concerned the CFP negotiated by AOC would not provide sufficient resources to maintain the facility.

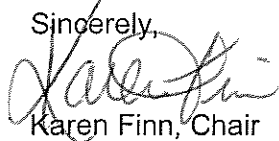
The AOC-proposed methodology yielded costs of \$1.725 per square foot, whereas the COWCAP method used by Riverside initially resulted in a per square foot cost of \$0.85.

There was another methodology discussed, approved by AOC, but not approved by Riverside County. That methodology would have used the COWCAP and adjusted it by an inflationary factor to capture costs for subsequent base years. This would yield an annual CFP of \$299,426, or approximately \$1.25 per square foot. The AOC contended that a three to five-year average of costs is more representative than a one-year period, and more consistent with the statutory guidelines, and the committee agreed.

**Recommendation:** Approve an alternative methodology using more than one year of data, but using COWCAP as the basis. This will yield a CFP of \$299,426. The Committee members voted unanimously to approve the alternative methodology.

Per Government Code Section 70303, the CFDRC will make recommendations regarding disputes to the Director of Finance who will then make the final determination. Please accept this letter as the CFDRC formal recommendation on the above listed dispute.

Sincerely,



Karen Finn, Chair

cc: All Interested Parties of the Court Facilities Dispute Resolution Committee